IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

OP.No. 8750 of 2000(N)

PETITIONER:

CHATHUPPERI MOIDU,
THAHIRA MAHAL,
ERUVATTY DESOM, THALASSERY,
REP. BY THE POWER OF ATTORNEY HOLDER
KARIKKOTTATH ARAPEEDIKAYIL AHAMMED HAJI.

BY ADV. SRI.C.KHALID
SRI.N.GOPINATHA PANICKER
SRI.P.VISWAMBARAN

RESPONDENTS:
---

1. THE TAHSILDAR, THALASSERY.

2. THE REVENEU DIVISIONAL OFFICER,
THALASSERY.

3. THE DISTRICT COLLECTOR, KANNUR.

4. THE STATE OF KERALA REP. BY ITS
CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
TRIVANDRUM.

BY GOVERNMENT PLEADER SMT.SMITHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 22/03/2007, ALONG WITH OP NO. 8767 OF 2000, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.14610/2000 IN O.P. NO.8750/2000

DISMISSED:

22.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF THE ASSESSMENT ORDER DT.13.10.1997 UNDER KERALA BUILDING TAX ACT, 1975 ISSUED BY R1.

P2: TRUE COPY OF THE DEMAND NOTICE DT.13.10.97 ISSUED BY R1.

P3: TRUE COPY OF RECEIPT NO.64 DT.31.10.1997.

P3(a): .DO. NO.3 DT.28.6.99.

P4: TRUE COPY OF PROCEEDINGS OF R2.

P5: .DO. DT.26.2.2000 OF R3.

TRUE COPY

P.A. TO JUDGE

.C.N.RAMACHANDRAN NAIR, J.

.....

O.P. Nos.8750 & 8767 of 2000

.....

Dated this the 22nd day of March, 2007.

JUDGMENT

The petitioner is challenging building tax assessment in respect of a two storied residential building on the ground that ground floor was constructed several years back prior to construction of first floor and therefore, plinth area of ground floor should not be included. However, petitioner has not produced any material to prove his claim that ground floor was constructed in the year 1985. If ground floor was constructed earlier, then it should have been numbered by the Panchayat and besides building tax, petitioner would have been paying property tax on a regular basis. Even if part of the construction was made earlier, the building as such can be assessed only when it is completed which was in 1997. In the circumstances, petitioner is not entitled to have the plinth area of the ground floor excluded from assessment. The petitioner has not raised any dispute with regard to plinth area assessed either during assessment or in appeal or revision. Same is the position with regard to rate of tax also. In the circumstances, O.P. is dismissed.

C.N.RAMACHANDRAN NAIR
Judge

pms